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Attorneys for Sonos, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SONOS, INC.,
Plaintiff and Counterdefendant,
v.
GOOGLE LLC,
Defendant and Counterclaimant.

Case No. 3:20-cv-06754-WHA
Consolidated with
Case No. 3:21-cv-07559-WHA

**DECLARATION OF JOSEPH R.
KOLKER IN SUPPORT OF SONOS,
INC.'S SUPPLEMENTAL BRIEF
REGARDING GOOGLE'S CLAIMED
DERIVATION DEFENSE**

Judge: Hon. William Alsup
Pretrial Conf.: May 3, 2023
Time: 12:00 p.m.
Courtroom: 12, 19th Floor
Trial Date: May 8, 2023

1 I, Joseph R. Kolker, declare as follows and would so testify under oath if called upon to
2 do so:

3 1. I am an attorney with the law firm of Orrick, Herrington & Sutcliffe LLP, counsel
4 of record to Sonos, Inc. (“Sonos”) in the above-captioned matter. I am a member in good
5 standing of the New York State Bar and am admitted to practice before this Court in this matter
6 *pro hac vice*. I make this declaration based on my personal knowledge, unless otherwise noted.
7 If called, I can and will testify competently to the matters set forth herein.

8 2. I make this declaration in support of Sonos’s Supplemental Brief Regarding
9 Google’s Claimed Derivation Defense.

10 3. Attached hereto as **Exhibit A** is a true and correct copy of excerpts of Google’s
11 invalidity contentions, served on December 6, 2021.

12 4. On April 3, 2023, pursuant to the Court’s scheduling order, Dkt. 547, Sonos served
13 draft proposed pretrial order materials on Google, including the proposed pretrial order, proposed
14 jury instructions, proposed verdict form, proposed voir dire, proposed jury questionnaire, and
15 proposed neutral statement of the case for voir dire.

16 5. Attached hereto as **Exhibit B** is a true and correct copy of Google’s redlines to the
17 joint proposed jury instructions, which Google served on April 12, 2023, pursuant to the Court’s
18 scheduling order, Dkt. 547. In order to facilitate filing via CM/ECF, Sonos has converted the
19 Word document served by Google into a PDF; Sonos will provide the original Word document
20 upon the Court’s request.

21 6. On April 14, 2023, pursuant to the Court’s scheduling order, Dkt. 547, Google
22 served redlines to the joint pretrial order and verdict form (among other pretrial order materials).
23 Among Google’s redlines to the pretrial order was the addition of two “factual issues that remain
24 to be tried”: “Whether Claim 1 of the ’885 patent is invalid by way of derivation” and “Whether
25 Claims 1, 2, 4, 6, 8, 9, 10, 12, 14, and 16 of the ’966 patent are invalid by way of derivation.”
26 Google made corresponding redlines to the proposed verdict form. Sonos will provide these
27 documents upon the Court’s request.
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1 7. Attached hereto as **Exhibit C** is a true and correct copy of an email chain between
2 counsel for Google and counsel for Sonos in this case dated between April 3, 2023 and April 18,
3 2023.

4
5 I declare under penalty of perjury that the foregoing is true and correct to the best of my
6 knowledge. Executed this 2nd day of May, 2023 in San Francisco, California.

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